

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

MATTIA MURATORE

*Plaintiff,*

v.

EVERGREEN INDUSTRIES, INC. AND

JEREMY TERRELL WHITE

*Defendants.*

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CIVIL ACTION NO. 5:21-cv-546

**JURY TRIAL REQUESTED**

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**DEFENDANTS EVERGREEN INDUSTRIES, INC. AND JEREMY WHITE'S NOTICE  
OF REMOVAL**

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Pursuant to 28 U.S.C §§ 1332(a), 1441, and 1446, Defendants EVERGREEN INDUSTRIES, INC. AND JEREMY WHITE, hereby give notice of the removal of this cause of action to the United States District Court for the Western District of Texas, San Antonio Division. Defendant EVERGREEN INDUSTRIES, INC. AND JEREMY WHITE state as grounds for removal the following:

**PROCEDURAL STATUS OF THE CASE**

1. Plaintiff, MATTIA MURATORE filed his First Amended Original Petition in the 225<sup>th</sup> Judicial District Court of Bexar County, Texas on April 30, 2020. It carries the case style of Cause No. 2021-CI-08396; *Mattia Muratore v. Evergreen Industries, Inc. and Jeremy Terrell White*; In the 225<sup>th</sup> Judicial District Court of Bexar County, Texas.

2. The Judicial District Clerk of Bexar County, Texas issued its citations to Evergreen Industries and Jeremy White on or about May 11, 2021.<sup>1</sup>

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<sup>1</sup> See Ex. D (Evergreen Industries, Inc.'s Registered Agent was served on or about May 19, 2021); Ex. H. (Plaintiff's Service of Process on Defendant Jeremy White).

3. Evergreen Industries, Inc. and Jeremy White are filing this Notice of Removal within 30 days of receipt of Plaintiff's Original Petition, which was served on or about May 19, 2021, and prior to filing an Original Answer.

4. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* 28 U.S.C. § 1446(a).

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Western District of Texas, San Antonio Division.

6. Defendant will promptly file a copy of this Notice of Removal with the Bexar County District Clerk.

### **BACKGROUND**

7. This case arises out of a motor vehicle accident that occurred in San Antonio, Bexar County, Texas on March 22, 2021. The drivers involved in the collision were: Plaintiff, Mattia Muratore and Defendant, Jeremy Terrell White. Plaintiff Mattia Muratore claims that he suffered personal injuries as a result of the alleged negligence of Defendant, Jeremy Terrell White.

8. Plaintiff, Mattia Muratore, currently resides in Harris County, Texas and is a citizen of the State of Texas.

9. Defendant Evergreen Industries, Inc is a corporation organized in Mississippi and with its principal place of business located in the State of Mississippi.<sup>2</sup>

10. Defendant Jeremy Terrell White resides in Crosby, Missouri and is a citizen of the State of Missouri.

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<sup>2</sup> *See* Ex. F (DTL Transport, LLC's Registration in Florida); *See also* Ex. G (DTL's 2019 Annual Report in Florida).

### **BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION**

11. Plaintiff Mattia Muratore demands judgment in an amount over \$10,000,000<sup>3</sup> and the Plaintiff and the Defendants in this matter are citizens of different States. The district courts therefore have original jurisdiction of this matter according to 28 U.S.C § 1332(a).

### **PROPRIETY OF REMOVAL**

12. Evergreen Industries was served with Plaintiff's Original Petition on or around May 19, 2021. Jeremy White was served with Plaintiff's Original Petition on or around May 18, 2021. This Notice of Removal is timely because it is filed within thirty (30) days of Defendants' receipt of the Plaintiff's Original Petition, in accordance with 28 U.S.C § 1446(b).

13. Both Evergreen Industries and Jeremy White consent to removal and are joining in this removal. 28 U.S.C. § 1446(b)(2)(A).

14. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

15. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the venue where the state court action was pending. *See* 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Bexar County, Texas, which is found in the Western District of Texas, San Antonio Division. Therefore, venue of this removed action is proper in this Court and Division.

16. Removal is not barred by 28 U.S.C. § 1445. Defendant Jeremy Terrell White is not a citizen or resident of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b).

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<sup>3</sup> See Ex. C (Plaintiff's First Amended Petition).

Defendant Evergreen Industries, Inc, is a corporation organized in Mississippi and with its principal place of business located in the State of Mississippi.

17. Pursuant to 28 U.S.C § 1446(a) and Rule 81 of the Federal Rules of Civil Procedure, Defendants have attached hereto:

- (1) A list of all parties in the case, their party type, and the current status of the removed case;
- (2) A civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court (if any);
- (3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and part or parties represented by him or her;
- (4) A record of which parties have requested trial by jury; and
- (5) The name and address of the Court from which the case is being removed.

**REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY**

18. If Plaintiff Mattia Muratore contests this removal, Defendant requests:
- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
  - b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
  - c. Leave to conduct limited discovery related to those issues.

**JURY DEMAND**

19. Defendant demands a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendants Evergreen Industries, Inc. and Jeremy White, remove the above captioned action from the 225<sup>th</sup> District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

**THE FUENTES FIRM, P.C.**

/s/ *David Helmey*

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**ATTORNEY FOR DEFENDANTS  
EVERGREEN INDUSTRIES, INC.  
AND JEREMY WHITE**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per W. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendant's Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this 8<sup>th</sup> day of June 2021.

/s/ *David Helmey*

DAVID HELMEY